As to the rejection of claims 1-8, 10-12, 14-29, 31-34, 36 and 50-53 under 35 U.S.C. §103(a) as being unpatentable over Yokogawa et al, U.S. Patent 5,891,252 in view of Singh et al, U.S. Patent 6,042,687 and the rejection of claim 9 under 35 U.S.C. §103(a) as being unpatentable over Yokogawa et al, U.S. Patent 5,891,252 in view of Singh et al, U.S. Patent 6,042,687 further in view of Gupta et al, U.S. Patent 5,902,494, such rejections are traversed as being improper, in that applicants submit that Yokogawa et al is not properly utilizable in rejecting claims of this application under 35 U.S.C. §103 in light of the applicability of 35 U.S.C. §103(c).

More particularly, this CPA has a filing date subsequent to November 29, 1999 at which time 35 U.S.C. §103(c) became effective. Applicants note that Yokogawa et al and the present application are commonly assigned and as provided by 35 U.S.C. §103(c), subject matter developed by another person, which qualifies as prior art only under one or more subsection (e), (f), and (g) of §102 of title 35, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. As such, applicants submit that Yokogawa et al which only qualifies as prior art under the indicated subsections of 35 U.S.C. §102 and has the same

assignee as the present application, cannot be properly utilized in rejecting claims under 35 U.S.C. §103 as set forth in this Office Action. Accordingly, applicants submit that the rejections as set forth based upon Yokogawa et al in combination with other cited art under 35 U.S.C. §103 necessarily fall and all claims present in this application should now be considered to patentably distinguish over the cited art and allowable thereover.

Applicants note that newly presented dependent claim 55 should be considered as one of the claims under consideration, and in light of the overcoming of the rejections as set forth, the dependent claims which stand withdrawn from consideration should also be considered at this time, and determined to be allowable with the other claims.

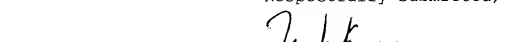
Applicants note that with regard to the rejection as set forth in the Office Action of July 3, 2001, based upon Yokogawa et al and Singh et al, the Examiner in regards to the taking of Official Notice to show control means refers to U.S. Patent No. 6,068,784. Applicants note that if the Examiner intended to rely on such patent, the Examiner must set forth the same in the statement of the rejection referring to In re Hoch, 166 USPQ 406 (CCPA 1970).

In view of the above amendments and remarks, applicants submit that all claims present in this application should now

be in condition for allowance, and issuance of an action of a favorable nature is courteously solicited.

To the extent necessary, applicant's petition for an extension of time under 37 CFR 1.136. Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 01-2135 (500.37328CX1) and please credit any excess fees to such deposit account.

Respectfully submitted,



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VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

Please amend claim 33 as follows:

33. (twice amended) A plasma etching system in accordance with Claim 3, wherein:

the vacuum chamber includes an upper section made of an insulating material[, i.e., quartz or aluminum oxide]

the system further including, on an atmosphere side of the insulating material, a planar plate arranged via dielectric at an earth-potential; and

the electromagnetic wave is applied to the planar plate to generate plasma in the vacuum chamber through reaction between the electromagnetic wave and the magnetic field.

Please add the following new claim:

--55. A plasma etching system in accordance with claim 33, wherein the insulating material includes one of quartz and aluminum oxide.--